

PART I – THE SCHEDULE

SECTION H

SPECIAL CONTRACT REQUIREMENTS

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SECTION H - SPECIAL CONTRACT REQUIREMENTS

H.01 SYNONYMOUS TERMS

Throughout this Basic Ordering Agreement (BOA), the term “Contract,” “BOA,” or “Agreement” may appear. In this sense, these terms are all synonymous with one another. This BOA is not a contract as defined by FAR 2.101, rather it is an agreement. However, when firm-fixed price task orders are awarded off of this BOA, such terms and conditions contained herein will become contractually binding to the executed task order.

H.02 NO THIRD PARTY BENEFICIARIES

This BOA is for the exclusive benefit and convenience of the parties hereto. Nothing contained herein shall be construed as granting, vesting, creating or conferring any right of action or any other right or benefit upon past, present or future employees of the Contractor, or upon any other third party. This provision is not intended to limit or impair the rights which any person may have under applicable Federal statutes.

H.03 ALTERNATIVE DISPUTE RESOLUTION (ADR)

- (a) The DOE and the Contractor both recognize that methods for fair and efficient resolution of significant disputes are essential to the successful and timely achievement of critical milestones and completion of all requirements. Accordingly, the parties agree that in the event of a dispute to jointly select a 'standing neutral.' The standing neutral will be available to help resolve disputes as they arise. Such standing neutral can be an individual, a board comprised of three independent experts, or a company with specific expertise in the Contract area. If a standing neutral cannot be agreed upon, the DOE Office of Dispute Resolution will make a selection. Specific joint ADR processes shall be developed.
- (b) The parties agree the following provision may be invoked for significant disputes upon mutual agreement of the DOE and the Contractor:
 - 1. DOE and the Contractor shall use their best efforts to informally resolve any dispute, claim, question, or disagreement by consulting and negotiating with each other in good faith, recognizing their mutual interests, and attempting to reach a just and equitable solution satisfactory to both parties. If any agreement cannot be reached through informal negotiations within 30 days after the start of negotiations, then such disagreement shall be referred to the standing neutral, pursuant to the jointly-developed ADR procedures.
 - 2. The standing neutral will not render a decision, but will assist the parties in reaching a mutually satisfactory agreement. In the event the parties are unable after 30 days to reach such an agreement, either party may request, and the standing neutral will render, a non-binding advisory opinion. Such opinion shall not be admissible in evidence in any subsequent proceedings.

- (c) If one party to this agreement requests the use of the process set forth in Paragraphs b(1) and b(2) of this clause and the other party disagrees, the party disagreeing must express its position in writing to the other party. On any such occasion, if the party requesting the above process wishes to file a claim they may proceed in accordance with Section I, FAR 52.233-1 Disputes Alternate I.

H.04 RELEASE OF INFORMATION

Any proposed public release of information including news releases, publications, exhibits, or audiovisual productions pertaining to the effort/items called for in this BOA shall be submitted at least ten (10) days prior to the planned issue date for approval in draft form. Proposed releases are to be submitted to DCO. The DCO will then obtain necessary reviews and clearances and provide the Contractor with the results of such reviews prior to the planned issue date.

H.05 CONFIDENTIALITY OF INFORMATION

- (a) To the extent that the work under this BOA requires that the Contractor be given access to confidential or proprietary business, technical, or financial information belonging to the Government or other companies, the Contractor shall, after receipt thereof, treat such information as confidential and agree not to appropriate such information to its own use or to disclose such information to third parties unless specifically authorized by the Contracting Officer in writing. The foregoing obligations, however, shall not apply to:
 - 1. Information which, at the time of receipt by the Contractor, is in the public domain;
 - 2. Information which is published after receipt thereof by the Contractor or otherwise becomes part of the public domain through no fault of the Contractor;
 - 3. Information which the Contractor can demonstrate was in his possession at the time of receipt thereof and was not acquired directly or indirectly from the Government or other companies;
 - 4. Information which the Contractor can demonstrate was received by it from a third party who did not require the Contractor to hold it in confidence.
- (b) The Contractor shall obtain the written agreement, in a form satisfactory to the Contracting Officer, of each employee permitted access, whereby the employee agrees that he will not discuss, divulge or disclose any such information or data to any person or entity except those persons within the Contractor's organization directly concerned with the performance of the BOA or subsequent task orders.
- (c) The Contractor agrees, if requested by the Government, to sign an agreement identical, in all material respects, to the provisions of this clause, with each company supplying information to the Contractor under this BOA, and to supply a copy of such agreement to the Contracting Officer.
- (d) The Contractor agrees that upon request by DOE it will execute a DOE-approved agreement with any party whose facilities or proprietary data it is given access to or is

furnished, restricting use and disclosure of the data or the information obtained from the facilities. Upon request by DOE, such an agreement shall also be signed by Contractor personnel.

- (e) This clause shall flow down to all subcontracts.

H.06 AUTHORIZED USERS

- a. All DOE Offices (including the National Nuclear Security Administration, Laboratories, and Project Offices), DOE Prime Contractors and Subcontractors to DOE Prime Contractors, performing environmental cleanup services for DOE, are authorized to place task orders under this BOA.
- b. Other users may be authorized, in writing, by the DOE CO on a case-by-case basis. Inquiries shall be directed to the DOE CO, as documented in Section G, *Contract Administration Data*.

H.07 ORDERING PROCEDURES

(a) For the work specified in the Performance Work Statement of this BOA, the DCO may issue competitive Firm-Fixed Price task orders or Indefinite Quantity task orders with Fixed-Unit-Rates to one or more of these Contractors, pursuant to the procedures set forth in this clause. Orders issued against this agreement shall not be done in a manner that in any way restricts competition. The Contractor shall commence performance upon the receipt of a task order signed by DCO. The Contractor shall not be reimbursed for the costs of preparing task proposals as a direct cost under any Task Order.

(b) Procedures for Issuance of Request for Task Proposals (RTP)

1. Prior to issuance of a Request for Task Proposal (RTP), the DCO is required to verify that the RTP is within the scope of this BOA. The DCO must notify the CO identified in Section G, *Contract Administration Data*, of the DCO's intention to issue an RTP or award a Task Order. This notification should be made in writing and will include the estimated dollar value of the Task Order and a copy of the draft Performance Work Statement. The CO will provide a response to the DCO within five days of their request.
2. Upon response from the CO, the DCO will furnish the Contractor(s) with a RTP which will include, at a minimum:
 - a) A description of the specified work and deliverables required, including the site location;
 - b) The performance period;
 - c) A Performance Based Work description of the Task Order;
 - d) Proposal preparation instructions;
 - e) If applicable, any property, material or services to be made available for performance of the order;
 - f) Any other pertinent information, such as Service Contract Act Wage rates, site visit

- date, Certificate of Current Cost or Pricing Data, if applicable;
- g) A reasonable response time;
 - h) Basis for award of the Task Order; lowest price technically acceptable
 - i) The Contractor shall, within the time specified in the RTP, provide the required number of copies of the proposal as set forth in the RTP. The Contractor's proposal shall address the requirements as specified in the RTP which may also include providing cost and technical information.
- 3. In issuing tasks under this procedure, the DCO will base issuance on the lowest price technically acceptable. The DCO shall ensure that the lowest price technically acceptable Contractor has the required licenses and permits for the treatment required by the PWS.
 - 4. Seven (7) calendar days will be considered a reasonable time for the Contractor to respond. DCO's may provide for a longer period and will identify such period in the RTP.
 - 5. If applicable, at the conclusion of discussions/negotiations, if requested by the DCO, the Contractor shall provide a Certificate of Current Cost or Pricing Data pursuant to FAR 15.403-4 using the format as set forth in FAR 15.406-2, if applicable.
- (c) The Contractor agrees that issuance of a task order in accordance with any of the procedures as described below is deemed to have provided the Contractor a "fair opportunity to be considered" as that phrase is used in Section 303J (b) of the Federal Property and Administrative Services Act of 1949, as amended.
- (d) The DCO shall give every awardee a fair opportunity to be considered for a task order exceeding \$3,000 unless one of the following statutory exceptions applies:
- (1) The agency need for the supplies or services is so urgent that providing a fair opportunity would result in unacceptable delays;
 - (2) Only one awardee is capable of providing the supplies or services required at the level of quality required because the supplies or services ordered are unique or highly specialized;
 - (3) The order must be issued on a sole-source basis in the interest of economy and efficiency as a logical follow-on to an order already issued under the BOA, provided that all awardees were given a fair opportunity to be considered for the original order.
- (e) Task orders issued against this BOA will include, at a minimum, the following information:
- 1. Official Form (OF) 347 Form
 - 2. Date of the order;
 - 3. BOA and Task Order numbers;
 - 4. Task Order Performance Period
 - 5. Task Order deliverables;
 - 6. If applicable, any property, material, or site support to be made available for performance of the Task Order (GFS/I);
 - 7. The total quantity and dollar value of the Task Order, and appropriate breakout for the specific Task Order type, if applicable;

8. Accounting and appropriation data;
 9. The names, addresses, and phone numbers of the applicable DCO and DCOR as well as any other necessary points of contact; and
 10. Any other pertinent information deemed necessary to the performance of the order.
- (f) To ensure that all Contractors are afforded a fair opportunity to be considered for task orders under this BOA, DOE has established a Task Order Ombudsman. The purpose of the Ombudsman is not to diminish the authority of the Contracting Officer, but to receive on behalf of and to communicate to the appropriate Government personnel concerns and disagreements of Contractor(s) not receiving a specific task and to work to resolve the matter. When requested, the Ombudsman will maintain in strict confidentiality as to the source of the concern. The Ombudsman does not participate in the original selection of Contractor(s) or in the evaluation or determination of the issuance of task orders under this BOA. The Ombudsman also does not act in the capacity of a Contracting Officer, and does not participate in the adjudication of disputes.

Interested parties may contact the Ombudsman with concerns or disagreements. However, before consulting with an ombudsman, interested parties must first address their concerns, issues, disagreements, and/or recommendations to the CO or the DCO for resolution.

If resolution cannot be made by the CO and DCO level, interested parties may contact the Contracting Activity ombudsman at the following address:

Office of Environmental Management (EM) Task Order Ombudsman
US Department of Energy
1000 Independence Ave., S.W.
Washington, DC 20585

Concerns, issues, disagreements, and recommendations which cannot be resolved by the Contracting Activity ombudsman may be referred to the DOE ombudsman at the following address:

DOE Ombudsman
US Department of Energy
1000 Independence Ave., S.W.
Washington, DC 20585

Please do not contact the ombudsman to request copies of the RTP, verify offer due dates, or clarify technical requirements. Such inquiries shall be directed to the DCO as specified in the RTP.

H.08 TASK ORDERS ISSUED BY DOE PRIME CONTRACTORS AND SUBCONTRACTORS

Any DOE Prime Contractor, or Subcontractor to DOE Prime Contractor, performing environmental cleanup services for DOE is authorized to use the terms and conditions of this BOA and may place orders as subcontracts in accordance with FAR Part 44, Subcontracting Policies and Procedures, and the terms of this agreement. DOE Prime Contractors, or Subcontractors to DOE

Prime Contractors, may use this BOA to establish orders for services described in Section C directly with the Contractor as provided herein:

1. Is within scope of this agreement,
2. Is consistent with all of the terms and conditions of the BOA except for those clauses/provisions that have been identified as peculiar to the Government procurement (disputes resolution, prompt payment, and payment by electronic funds transfer), as well as, specific provisions that may be applicable to work performed on a particular DOE site. These provisions will be identified and addressed in the specific order (subcontract) issued by the DOE Prime or Subcontractor.
3. Provided that the Contracting Officer for the DOE prime contract has specifically authorized, in writing, the placement of such subcontracts using the same terms and conditions of this agreement. Before providing such approval, the Contracting Officer for the DOE prime contract, shall have coordinated with the Contracting Officer identified in G.4 and obtained approval to use this BOA's identical terms and conditions except as specifically set forth in this clause.

The Government shall not be liable under this BOA for any subcontracts entered into by such DOE Prime Contractors or its Subcontractors. Additionally, the DOE Prime Contractor/Subcontractor may use substantially similar forms that meet the intent of the OF 347. The DOE Prime Contractor/Subcontractor and the BOA Contractor shall execute a separately signed subcontract document that incorporates the terms and conditions of this BOA. Any other site-specific terms and conditions when entering into a separately signed task order/subcontract must be mutually agreeable between the Contractor and the DOE Prime Contractor or Subcontractor to a DOE Prime Contractor. The use of the BOA terms and condition by a DOE Prime Contractor or Subcontractor does not create privity of contract between DOE and the Prime Contractor/Subcontractor.

H.09 TASK ORDER ADMINISTRATIVE INFORMATION

(a) All DOE Offices, including the National Nuclear Security Administration (NNSA), Laboratories, and Project Offices, including DOE Prime Contractors and Subcontractors to a DOE Prime Contractors are authorized to place task orders under this BOA.

(b) The DCO identified on each task order is responsible for all task order activities including requesting Task Proposals/Task Plans, evaluating for award, awarding, funding, all administrative activities and evaluating Contractor performance for all task orders issued. For tracking purposes, the CO will issue four-digit tracking number to each individual task order awarded under this BOA. This tracking number will be specified in Section G of the task order and will include two alpha characters for the ordering office and two numeric characters for the task sequence (e.g. LN01 – Los Alamos National Laboratory Task Order 01).

(c) The DCO will provide copies of task orders and task order modifications to the CO. Copies of performance evaluations on completed task orders, or task orders that are in process, will also be provided to the CO. The CO will provide copies of the BOA or BOA modifications to the DCO,

upon request. The DCO will also provide past performance information for work performed under this BOA to the CO.

H.10 SITE-SPECIFIC/TASK ORDER TERMS AND CONDITIONS

The Contractor acknowledges that the organization issuing a task order under this BOA may have requirements unique to its mission and/or geographic location, including additional detailed statements of work. The Contractor agrees that the organization placing an order reserves the right to incorporate, subject to mutual agreement of the organization and the Contractor, its own local site-specific terms and conditions relative to the Federal Acquisition Regulations, Agency-specific regulations, orders or guidelines, environment, safety and health considerations, or other applicable local, state and Federal laws and regulations. These site-specific and task order-specific Terms and Conditions shall only apply to the task order(s) into which they are incorporated.

All task orders are subject to the terms and conditions of this BOA. In the event of conflict between a task order and this BOA, this BOA shall control.

H.11 MODIFICATION AUTHORITY

Notwithstanding any of the other clauses of this BOA, the CO shall be the only individuals authorized to:

- (a) Accept nonconforming work,
- (b) Waive any requirement, or
- (c) Modify any term or condition of this agreement.

H.12 LOBBYING RESTRICTIONS (ENERGY AND WATER DEVELOPMENT AND RELATED AGENCIES APPROPRIATIONS ACT, 2014)

The Contractor agrees that none of the funds obligated on future task orders shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to members of Congress as described in 18 U.S.C. 1913. This restriction is in addition to those prescribed elsewhere in statute and regulations.

H.13 DISPUTES

In addition to any other clauses contained herein related to the Section I clause entitled “FAR 52.233-1 Disputes,” any dispute between the Contractor and the DCO shall be handled between the CO identified in this BOA and the Contractor.

In accordance with FAR 16.703 (c) (1) (v), a failure to reach agreement on price for any task order issued against this BOA will be handled under the disputes clause of this BOA.

H.14 DEPARTMENT OF LABOR WAGE DETERMINATIONS

In the performance of this BOA, and any subsequent task orders, the Contractor shall comply with the requirements of the U.S. Department of Labor Wage Determination(s) as may be issued and revised under the Service Contract Act (SCA). See Section J, Attachment J.3.

H.15 INCORPORATION OF REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFEROR

The representations, certifications, and other statements of Offeror, completed by the Contractor, Dated **TBD**, are hereby incorporated by reference and made a part of this BOA and any subsequent task order.

H.16 REPORTING REQUIREMENTS

The Contractor shall prepare and submit the Deliverables as set forth in Section J, Deliverables, to the addressees, and in the required number of copies, as designated in this BOA or as specified in the Task Orders.

H.17 WASTE GENERATOR RESPONSIBILITIES/GOVERNMENT FURNISHED RESOURCES

The Ordering Activity/Waste Generator shall provide the following, as applicable, unless otherwise specified in the individual task order. Additional Waste Generator or Government furnished resources may be identified in the individual Task Order.

1. Select all containerized material and deliver in accordance with an agreed-to schedule, to a designated staging area at a DOE site.
2. Develop staging areas on the DOE sites where containerized waste will be loaded before the material is transported to the Contractor facility.
3. Obtain necessary approvals or exemptions to DOE Order 435.1, Chg. 1 *Radioactive Waste Management*, to allow radioactive waste to be stored, treated, or disposed of, at a non- Federal facility.
4. Provide National Environmental Protection Act (NEPA) documentation, as required.
5. Provide required characterization data to meet RCRA, TSCA, DOT, and vendor waste profile requirements to ship the wastes off-site.
6. All wastes to be treated under this BOA were generated at Government facilities or under Government contracts and responsibility for the waste remains with the Government origin site until accepted by the contractor.
7. If the Government is the shipper of record, the Ordering Activity/Waste Generator is

responsible for all markings, labeling, packaging, containers, carriers, and shipment of LLW and MLLW, and costs incidental to and associated with, the delivery of the radioactive waste to the Contractor's facility. Provide all equipment and labor, and load all containerized waste on transport vehicles at the staging areas. Review all marking, labeling, and placarding as required by DOT Hazardous materials regulations 49 CFR 172 Subparts D, E, and F after loading the waste. Perform health physics surveys and release the waste for off-site transport. Complete shipping papers and manifests for each load of waste being transported to the vendor's treatment facility. Packaging, markings, containers and carrier requirements shall be in compliance with current applicable regulations, laws, ordinances, Contractor licenses, and the following DOT CFR:

(a) 49 CFR Part 172 – *Hazardous Materials Table, Special Provisions, Hazardous Material Communications, Emergency Response Information, and Training Requirements.*

(b) 49 CFR Part 173 – *Shippers – General Requirements for Shipments and Packaging.*

(c) 49 CFR Part 178 – *Specification for Packaging.* Claims arising from non-compliance with DOT Title 49 CFR – Transportation and discrepancies occurring in transit through the completion of off-loading are a matter for settlement between the Ordering Activity and the carrier.

H.18 SUBCONTRACTS

(a) Prior to the placement of subcontracts and in accordance with the clause entitled FAR 52.244-6, "Subcontracts for Commercial Items (DEC 2010) ," the Contractor shall ensure that:

1. They contain all of the clauses of this BOA (altered when necessary for proper identification of the contracting parties) which contain a requirement for such inclusion in applicable subcontracts. Particular attention should be directed to the potential flow-down applicability of the clauses entitled "Utilization of Small Business Concerns and Small Disadvantaged Business Concerns" contained in Part II, Section I of the BOA;
2. Any applicable subcontractor Certificate of Current Cost or Pricing Data (see FAR 15.404-3b) and subcontractor Representations and Certifications (see Part IV, Section K and the document referenced in the Representations, Certifications and Other Statements of the Bidder clause are received); and
3. Any required prior notice and description of the subcontract is given to the Contracting Officer and any required consent is received. Except as may be expressly set forth therein, any consent by the Contracting Officer to the placement of subcontracts shall not be construed to constitute approval of the subcontractor or any subcontract terms or conditions, determination of the allowability of any cost revision of this BOA or any of the respective obligations of the parties there under, or creation of any subcontractor privity of contract with the Government.

(d) Prior to the award of any subcontracts for advisory and assistance services, the Contractor shall obtain from the proposed subcontractor or consultant the disclosure required by, and shall determine in writing whether the interests disclosed present an actual or significant potential for an organizational conflict of interest, in accordance with the contained in Section I of this BOA. The subcontractor shall perform no work until the Contractor has cleared the subcontractor for Organizational Conflicts of Interest (OCI).

H.19 LAWS, REGULATIONS AND DOE DIRECTIVES

(a) In performing work under this BOA, and any subsequent task order, the Contractor shall comply with the requirements of applicable Federal, State, and local laws and regulations (including DOE regulations), unless relief has been granted in writing by the appropriate regulatory agency.

(b) In performing work under this contract, the Contractor shall comply with the requirements of those Department of Energy directives, or parts thereof, identified in the List of Applicable DOE Directives (Section J, Attachment J.1) appended to this contract. Except as otherwise provided for in paragraph (d) of this clause, the Contracting Officer may, from time to time and at any time, revise the List B pursuant to the clause of this contract in Section I entitled, " CHANGES – FIXED-PRICE (AUG 1987) – ALTERNATE I (APR 1984)".

(c) Except as otherwise directed by the Contracting Officer, the Contractor shall procure all necessary permits or licenses required for the performance of work.

(d) Regardless of the performer of the work, the Contractor is responsible for compliance with the requirements of this clause. The Contractor is responsible for flowing down the requirements of this clause to subcontracts at any tier to the extent necessary to ensure the Contractor's compliance with the requirements.

H.20 DISPOSITION OF INTELLECTUAL PROPERTY - FAILURE TO COMPLETE BOA

The following provisions shall apply in the event the Contractor does not complete BOA performance for any reason:

(a) The Government may take possession of and use all the technical data, including limited rights data, restricted computer software, and data and software obtained from subcontractors, licensors, and licensees, necessary to complete the work in conformance with this BOA, including the right to use the data in any Government solicitations for the completion of the work contemplated under this BOA. Technical data includes, but is not limited to, specifications, designs, drawings, operational manuals, flowcharts, software, databases and any other information necessary for the completion of the work under this BOA. Limited rights data and restricted computer software will be protected in accordance with the provisions of the Section I clause entitled "DEAR 970.5227-1 Rights in Data- Facilities." The Contractor shall ensure that its subcontractors and licensors make similar rights available to the Government and its Contractors.

(b) The Contractor agrees to and does hereby grant to the Government an irrevocable, nonexclusive, paid-up license in and to any inventions or discoveries regardless of when conceived or actually reduced to practice by the Contractor, and any other intellectual property, including technical data, which are owned or controlled by the Contractor, at any time through completion of this BOA and which are incorporated or embodied in the construction of the facilities or which are utilized in the operation or remediation of the facilities or which cover articles, materials or products manufactured at a facility: (1) to practice or to have practiced by or for the Government at the facility; and (2) to transfer such license with the transfer of that facility. The acceptance or exercise by the Government of the aforesaid rights and license shall not prevent the Government at

any time from contesting the enforceability, validity or scope of, or title to, any rights or patents or other intellectual property herein licensed.

(c) In addition, the Contractor will take all necessary steps to assign permits, authorizations, leases, and licenses in any third party intellectual property to the Government, or such other third party as the Government may designate, that are necessary for the completion of the work contemplated under this BOA.

H.21 SECURITY

(a) Responsibility: It is the Contractor's duty to safeguard all classified information, special nuclear material, any information designated as sensitive and not subject to disclosure that may be provided either for task order proposal preparation or performance, and other DOE property. The Contractor shall, in accordance with DOE security regulations and requirements, be responsible for safeguarding and protecting against sabotage, espionage, loss and theft, classified information, sensitive information, and special nuclear material in the Contractor's possession in connection with the performance of work under this BOA and subsequent task orders. Excluding disposal of wastes, special nuclear material will not be retained after the completion or termination of the BOA or task order.

(b) Definition of Special Nuclear Material (SNM). SNM means: (1) plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which pursuant to the provisions of Section 51 of the Atomic Energy Act of 1954, as amended, has been determined to be special nuclear material, but does not include source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.

(c) Subcontracts and purchase orders. Except as otherwise authorized in writing by the Contracting Officer or the DCO for a task order, the Contractor shall insert provisions similar to the foregoing in all subcontracts and purchase orders issued by the Contractor under an individual task order.

H.22 ACCESS TO DOE-OWNED OR LEASED FACILITIES

(a) The performance of this BOA requires that employees of the Contractor have physical access to DOE-owned or leased facilities; however, this clause does not control requirements for an employee's obtaining a security clearance. The Contractor understands and agrees that DOE has a prescribed process with which the Contractor and its employees must comply in order to receive security badges that allow such physical access. The Contractor further understands that it must propose employees whose backgrounds offer the best prospect of obtaining approval for access, considering the following potentially disqualifying criteria, which are not all inclusive and may vary depending on access requirements:

1. Is or is suspected of being, a terrorist;
2. Is the subject of an outstanding warrant;
3. Has deliberately omitted, concealed, or falsified relevant and material facts from any Questionnaire for National Security Positions (SF-86), Questionnaire for Non-Sensitive Positions (SF-85), or similar form;

4. Has presented false or forged identity source documents;
 5. Has been barred from Federal employment;
 6. Is currently awaiting a hearing or trial or has been convicted of a crime punishable by imprisonment of six (6) months or longer; or
 7. Is awaiting or serving a form of pre-prosecution probation, suspended or deferred sentencing, probation or parole in conjunction with an arrest or criminal charges against the individual for a crime that is punishable by imprisonment of six (6) months or longer.
- (b) The Contractor shall assure:
1. In initiating the process for gaining physical access, (i) compliance with procedures established by DOE, including use of any forms directed by DOE; (ii) that employees properly complete said forms; and (iii) that the employees submit the forms to the person designated by the Contracting Officer.
 2. In completing the process for gaining physical access, that its employees (i) cooperate with DOE officials responsible for granting access to DOE-owned or leased facilities; and (ii) provide any additional information as DOE may request.
- (c) The Contractor understands and agrees that DOE may unilaterally deny a security badge to an employee and that the denial remains effective until such time as DOE determines that access may be granted. Upon notice from DOE that an employee's application for a security badge is or will be denied, the Contractor shall promptly identify a substitute employee and initiate the process for gaining access for the substitute. DOE's denial of a security badge to individual employees shall not be cause for extension of the period of performance of this BOA or any Contractor claim against DOE.
- (d) The Contractor shall return to the Contracting Officer or designee the badge(s) or other credential(s) provided by DOE pursuant to this clause, granting physical access to DOE-owned or leased facilities by the Contractor's employee(s), upon (1) the termination of this BOA; (2) the expiration of this BOA; (3) the termination of employment on this BOA by an individual employee; or (4) demand by DOE for return of the badge.
- (e) The Contractor shall include this clause, including this paragraph (e), in any subcontract, awarded in the performance of this BOA, in which one or more subcontractor employees will require physical access to DOE-owned or leased facilities.

H.23 CONTRACT PARTICIPATION BY FOREIGN NATIONALS

The Contractor shall notify the DCO, in writing, prior to any visit to a DOE facility by any foreign national in connection with the work being performed under the individual Task Order. This notification shall be made at least 45 days prior to the planned visit unless a shorter period is authorized by the DCO.

H.24 PERSONNEL SECURITY CLEARANCES

Specific personnel security requirements shall be specified under individual Task Orders.

H.25 PROTECTION OF UNCLASSIFIED NUCLEAR INFORMATION

- (a) The Contractor shall take appropriate action to establish and maintain a system to ensure that any Unclassified Controlled Nuclear Information (UCNI) in the Contractor's possession in connection with the performance of work under this BOA and all eventual task orders is protected from unauthorized disclosure and dissemination in accordance with DOE regulations.
- (b) The term "Unclassified Controlled Nuclear Information" means unclassified information protected against unauthorized dissemination pursuant to section 148 of the Atomic Energy Act with respect to atomic energy defense programs, and which pertain to:
 - (1) Design of production facilities or utilization facilities;
 - (2) Security measures relating to the protection of production or utilization facilities, nuclear materials contained in these facilities, nuclear materials in transit; or
 - (3) Design, production, or utilization of atomic weapons or components thereof, if such information was declassified or removed from the Restricted Data category, and if the unauthorized dissemination of such information could reasonably be expected to result in significant adverse effect on the public health and safety or the common defense by increasing the likelihood of illegal production of nuclear weapons, or theft, diversion or sabotage of nuclear materials, equipment or facilities.
- (c) Access to UCNI shall be limited to those persons determined to require access to UCNI in the performance of official duties, and in conformance with applicable DOE Orders.
- (d) While in use, UCNI shall be under the control of an authorized individual. As a minimum, UCNI shall be stored in locked desks, file cabinets, offices, or facilities where access is controlled.
- (e) Each document or other material that is determined to contain UCNI shall be marked in a conspicuous manner to indicate the presence of UCNI. When transmitted outside an authorized place or storage, these documents shall be packaged to preclude disclosure of the presence of UCNI. All markings and transmittals, including electronic media, will be accomplished in accordance with applicable DOE orders.
- (f) The Contractor agrees to conform to all regulations and requirements of the Department of Energy concerning UCNI as specified in the task order.
- (g) Persons who violate prohibitions against unauthorized disclosure of UCNI may be subject to civil and criminal penalties under Sections 148 and 223 of the Atomic Energy Act of 1954, as amended.
- (h) This article, including this paragraph (h) shall be included in all subcontracts which involve access to UCNI.

H.26 PROTECTION OF CLASSIFIED MATTER

Documents originated by the Contractor or furnished by the DCO to the Contractor in connection with this BOA may contain classified matter. The Contractor shall be responsible for protecting such information from unauthorized dissemination in accordance with applicable DOE Regulations and Directives as specified in the task order.

H.27 REPORTING OF FRAUD, WASTE, ABUSE, CORRUPTION, OR MISMANAGEMENT

The Contractor is required to comply with the following in accordance with the applicable DOE Order 221.1A Reporting Fraud, Waste and Abuse to the Office of Inspector General:

- (a) Notify their employees annually of their duty to report directly to the DOE Inspector General (IG) allegations or suspicions of fraud, waste, abuse, corruption, or mismanagement in DOE programs, operations, funds, or contracts. The Contractor employees should, when appropriate, report directly to the IG any information concerning wrongdoing by employees of DOE, Contractors, or subcontractors. The Contractor employees should also report to the DOE IG any allegations of reprisals taken against Contractor employees who have reported fraud, waste, abuse, corruption, or mismanagement to the IG;
- (b) Display and publish the DOE IG hotline telephone number in common areas of buildings, such as cafeterias, public telephone areas, official bulletin boards, reception rooms, and building lobbies; and
- (c) Publish the DOE IG hotline telephone number in phone books and newsletters.

H.28 CANCELTION OF BASIC ORDERING AGREEMENT

This Basic Ordering Agreement may be cancelled by either party, the Government or the Contractor, by transmitting a written notice of cancellation 30 days prior to the proposed end date. Any such cancellation shall have no effect on any task orders issued prior to the effect date of the cancellation.

H.29 UPDATE OF BASIC ORDERING AGREEMENT

In accordance with FAR 16.703 (c) (vi) (2), this basic ordering agreement will be reviewed annually by the Contracting Officer before the anniversary of the effective date and revised if necessary to conform with all requirements of the associated regulation. This basic ordering agreement may need to be revised prior to annually due to mandatory statutory requirements. Any revisions will be implemented through a written modification to the basic ordering agreement and signed by both parties. The basic ordering agreement can only be changed by modification of the agreement itself and not by adjustments made to individual orders issued under it. Changes made to the basic ordering agreement shall not retroactively affect orders previously issued.

H.30 PERMITS & LICENSING

The Contracting Officer and/or DCO have a right to exclude from competition of an individual task order a Contractor whose requisite licenses or permits have been suspended or may not have the requisite licenses or permits and/or who may be capable of receiving waste at the time of the issuance of the request for task proposals. The Contractor shall notify DOE immediately upon the occurrence of the above event.

H.31 CONTRACTOR'S PROGRAM/TASK MANAGER

- (a) The Contractor shall designate a Program Manager who will be the Contractor's authorized supervisor for technical and administrative performance of all work performed under each task order and any administrative actions required associated with this BOA. If applicable, the Program Manager shall provide the single point of contact between the Contractor and the DCOR under each task order.
- (b) The Program Manager shall receive and execute, on behalf of the Contractor, such technical directions as the DCOR may issue within the terms and conditions of the task order.

H.32 SMALL BUSINESS SUBCONTRACTING PLAN

The "master" Small Business Subcontracting Plan, submitted by the Contractor consistent with the provisions of the clause entitled, "FAR 52.219-9 Small Business Subcontracting Plan," in Section I, and approved by the Contracting Officer on **TBD**, is incorporated in and made a material part of this BOA as Section J, Attachment J.4.

To determine compliance with the Section J, Attachment J.4 Small Business Subcontracting Plan, the Contractor shall complete an Individual Subcontract Report (ISR), as required by FAR 52.219-9, semi-annually during BOA performance for the periods ending March 31st and September 30th. The ISR shall be submitted semi-annually within 30 days of the end of each six month period, unless otherwise directed by the Contracting Officer. The ISR shall also be submitted within 30 days of BOA completion. The Contractor shall also submit a Summary Subcontract Report (SSR) annually for each 12-month period ending September 30th. The SSR shall be submitted within 30 days of the end of each 12-month period. The SSR shall also be submitted within 30 days of BOA completion. Both the ISR and the SSR shall be submitted through the Electronic Subcontracting Reporting System (eSRS) at www.esrs.gov.

The SSR submitted at the close of each fiscal year shall include a Year-End Supplementary Report for Small Disadvantaged Businesses. The report shall include subcontract awards, in whole dollars, to small disadvantaged business concerns by North American Industry Classification System (NAICS) Industry Subsector. If the data is not available when the year-end SSR is submitted, the Contractor shall submit the Year-End Supplementary Report for Small Disadvantaged Businesses within 90 days of submitting the year-end SSR.

H.33 PARTNERING

In order to most effectively accomplish this BOA, and subsequent task orders, the Government proposes to form a cohesive partnership with the Contractor. It is a way of doing business based upon trust, dedication to common goals, and an understanding and respect of each other's expectations and values. The process creates a teambuilding environment which fosters better communication and problem solving, and a mutual trust between the participants. These key elements create a climate in which issues can be raised, openly discussed, and jointly settled, without getting into an adversarial relationship. In this way, partnering is a mindset, and a way of doing business. It is an attitude toward working as a team, and achieving successful project execution. This endeavor seeks an environment that nurtures team building cooperation, and trust between the Government and the Contractor. The partnership strives to draw on the strengths of each organization in an effort to achieve a quality project done right the first time, within budget, and on schedule.

Participation in the partnership will be totally voluntary by the parties. Any cost associated with effectuating this partnership will be agreed to by both parties during performance. The U.S. Army Corps of Engineers has championed partnering and their guidelines will be utilized in organizing partnering meetings and establishing a partnering agreement.